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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,275	06/30/2005	Orlando Miguel Pires Dos Reis Moreira	260686	6275
23460 7590 09/09/2009 LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6731				
EXAMINER				
VICARY, KEITH E				
ART UNIT		PAPER NUMBER		
2183				
NOTIFICATION DATE		DELIVERY MODE		
09/09/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Chgpatent@leydig.com  
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# **Advisory Action** **Before the Filing of an Appeal Brief**

## **Application No.**

10/541,275

## **Applicant(s)**

PIRES DOS REIS MOREIRA ET AL.

## **Examiner**

Keith Vicary

## **Art Unit**

2183

**—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**

THE REPLY FILED 28 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## **NOTICE OF APPEAL**

2. ☒ The Notice of Appeal was filed on 31 August 2009. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

## **AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): All previous 112 rejections.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-6, 8-14 and 16-29

Claim(s) withdrawn from consideration: \_\_\_\_\_

## **AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

## **REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☒ Other: See Continuation Sheet

/Eddie P Chan/  
Supervisory Patent Examiner, Art Unit 2183

Continuation of 13. Other: Examiner's position regarding the arguments made in the pre-appeal brief request for review filed 8/31/2009 will be conveyed below.

Applicant first summarizes the claimed subject matter in the context of the overall instant invention on pages 2-3, and then summarizes Gove's system on page 3.

Applicant then begins the overall argument that Gove's processor architecture does not anticipate Appellants' claims. Applicant first states that a reconfigurable channel infrastructure comprising a control chain cannot be found anywhere in Gove. However, examiner has in the rejection cited aspects of Gove which correlate to this limitation. While these cited aspects may be different than what a control chain encompasses in the instant invention, the fact remains that the limitation of "a control chain" can be appropriately broadly interpreted such that Gove teaches the claimed limitation. Applicant appears to argue in the remarks dated 8/28/2009 that the examiner's broad interpretation of the "chained" limitations is unreasonable in view of the well-defined meanings set forth in the specification, but there appears to be no explicit definition in the specification which would preclude the examiner's broad interpretation.

Applicant states that "claim 1 recites the control chain includes a switch...". While Gove would still appear to teach the claim regardless, examiner notes that the instant claim does not mandate that the control chain includes a switch, only that the reconfigurable channel infrastructure comprises both a control chain and a programmable switch.

Likewise, applicant states that "claim 1 recites...a preceding or succeeding processing element in the control chain". While Gove would still appear to teach the claim regardless, examiner also notes that the instant claim does not mandate that a processing element is "in" the control chain.

Applicant argues that the NAND gates of Gove associated with particular ones of the processing elements cannot controllably inhibit transmission of the synch control signals on synchronization lines 40 to neighboring processing elements; however, applicant does not elaborate as to why exactly this would be the case, in view of the examiner's rejection. Likewise, applicant argues two paragraphs down that Gove does not include switches which performs certain functionality. However, applicant does not elaborate as to specific shortcomings in the rejection previously given, wherein examiner had explained in depth how the switch limitation was met.

Applicant argues that Gove's universal control bus architecture is the antithesis of Appellant's claimed invention, and further argues two paragraphs down in summary that Gove's multiprocessor cluster control is implemented in a way that substantially and literally differs from the recited cluster control hardware. However, while examiner agrees that there is a significant conceptual difference between the instant invention as a whole and the invention of Gove as a whole (e.g. as previously conveyed by examiner in the first paragraph of the final rejection), this agreement does not preclude the examiner's belief that the invention of Gove still reads on the current \_claimed\_ instant subject matter.

Applicant argues on page 5 that Gove does not certain recited limitations; however, applicant does not elaborate in the context of the examiner's previously given rejection which provided citations for those recited limitations.

KV